

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 14, 2005

IN RE:

**PETITION OF LOADPOINT, LLC FOR ARBITRATION
WITH BELL SOUTH TELECOMMUNICATIONS, INC.**

)
)
)
)

**DOCKET NO.
04-00060**

ORDER GRANTING REQUEST TO HOLD PROCEEDINGS IN ABEYANCE

This matter is before the Pre-Arbitration Officer upon the request of LoadPoint, LLC ("LoadPoint") and BellSouth Telecommunications, Inc. ("BellSouth") to cancel the status conference scheduled for January 14, 2005 and to hold the arbitration proceedings in this docket in abeyance pending the issuance of rules by the Federal Communications Commission ("FCC") and the outcome of Tennessee Regulatory Authority ("Authority" or "TRA") Docket No. 04-00381.

Background

On February 23, 2004, LoadPoint filed a petition for arbitration with BellSouth pursuant to 47 U.S.C. § 252(b). BellSouth filed its response on March 16, 2004. At a regularly scheduled Authority Conference held on April 12, 2004, the panel assigned to this docket voted unanimously to accept LoadPoint's petition for arbitration and to appoint General Counsel or his designee to serve as Pre-Arbitration Officer for the purpose of identifying issues and preparing the docket for hearing.¹ The parties filed a joint issues matrix on April 22, 2004, identifying two

¹ See *Order Accepting Arbitration and Appointing Pre-Arbitration Officer* (May 18, 2004)

issues for arbitration. On June 11, 2004, the parties notified the Authority that all issues except Issue Number 2 had been resolved.² On August 25, 2004, in response to an inquiry from the Pre-Arbitration Officer, the parties reported they were still unable to resolve Issue Number 2.³ On November 30, 2004, a status conference was set for January 13, 2005. On December 3, 2004, that status conference was rescheduled for January 14, 2005. On January 13, 2005, the parties filed a letter requesting that the Pre-Arbitration Officer cancel the scheduled status conference and hold the arbitration proceedings in this docket in abeyance “pending issuance of rules by the FCC and the outcome of Docket No. 04-00381.”⁴

Discussion

The sole remaining issue in this docket is Issue Number 2, which is stated in the Joint Issues Matrix as:

How much time should LoadPoint have to convert circuits that are no longer compliant with the law?⁵

The Pre-Arbitration Officer finds that the forthcoming new rules for network unbundling obligations of incumbent local phone carriers, adopted by the FCC on December 15, 2004⁶ but not yet released, as well as TRA Docket No. 04-00381, a generic docket established to determine what changes recent decisions from the FCC and the United States Court of Appeals for the

² Letter from Henry Walker to Kim Beals, Pre-Arbitration Officer (June 11, 2004)

³ See Letter from Guy M. Hicks to Jean A. Stone, Pre-Arbitration Officer (August 25, 2004)

⁴ Letter from Henry Walker to Jean A. Stone, Pre-Arbitration Officer (January 13, 2005)

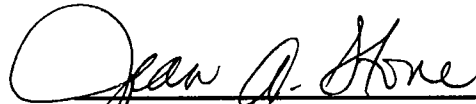
⁵ Joint Issues Matrix, p. 2 (April 22, 2004)

⁶ See News Release, Federal Communications Commission, FCC Adopts New Rules for Network Unbundling Obligations of Incumbent Local Phone Carriers (December 15, 2004)

District of Columbia Circuit require in existing interconnection agreements,⁷ could have an impact on Issue Number 2. As a result, the Pre-Arbitration Officer concludes that the request to hold this docket in abeyance is well-taken and should be granted.

IT IS THEREFORE ORDERED THAT:

The request of LoadPoint, LLC and BellSouth Telecommunications, Inc. to cancel the status conference scheduled for January 14, 2005 and to hold the arbitration proceedings in this docket in abeyance pending the issuance of rules by the FCC and the outcome of TRA Docket No. 04-00381 is hereby granted.


Jean A. Stone, Counsel
as Pre-Arbitration Officer

⁷ See *In Re Bellsouth's Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law*, TRA Docket No 04-00381, *Petition to Establish Generic Docket*, p 1 (October 29, 2004) On January 10, 2005, the panel assigned to Docket No 04-00381 voted unanimously to grant BellSouth's petition to open the generic docket See Transcript of Authority Conference, pp 43-44 (January 10, 2005)